

REMARKS

Claims 1 and 14 have been amended.

Applicant acknowledges with thanks the Examiner's recognition of the allowable subject matter of dependent claims 5, 10-13, and 22-25. Applicant believes that claims 1 and 14 as amended herein, from which claims 5, 10-13, and 22-25 depend from, are allowable and, therefore, the subject matter of dependent claims 5, 10-13 and 22-25 remain ultimately dependent from their respective base claims 1 and 14.

Applicant also acknowledges with thanks the Examiner's recognition of allowable subject matter of independent claim 26 and its dependent claims 27-39. Accordingly, claims 26-39 remain as originally filed.

I. Amendments to the Specification:

The Specification has been amended as submitted herein to refer to clarify the description of the illustrations shown in FIGs. 1-3. All of the amendments to the specification are fully supported by the originally filed drawings and the specification and no new matter has been added.

II. Amendments to Claims:

Independent claims 1 and 14 have been amended to further clarify the invention. Specifically, the phrase "the initial width and the target width being defined by the initial spacers and the final spacers extending along the structure away from the gate electrode portion,

respectively” has been added to both claims to clarify that the initial width is defined by the initial spacers extending along the structure away from the gate electrode portion and that the target width is defined by the final spacers extending along the structure away from the gate electrode portion. These amendments are fully supported by the disclosure in the originally filed specification. The support can be found, for example, in the illustration of FIGs. 2-4 and the accompanying text.

Claims 1 and 14 are further amended to clarify that the second spacer layer portions extending from the initial spacers along the structure form the final spacers. These amendments are also fully supported by the disclosure in the originally filed specification. For example, the feature of the invention is clearly shown in FIG. 4.

III. Claim Rejections:

The Examiner rejected claims 1-4, 9, 14-16 and 20 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,863,824 to Gardner et. al. (“Gardner”).

In response independent claims 1 and 14 have been amended. Amended claim 1 now recites:

A method of fabricating final spacers each having a target width, comprising the steps of:
providing a structure having a gate electrode portion formed thereover; the gate electrode portion having a top and opposing side walls;
forming initial spacers over the opposing side walls of the gate electrode portion; the initial spacers each having an initial width that is less than the target width, the initial width and the target width being defined by the initial spacers and the final spacers extending along the structure away from the gate electrode portion, respectively;

determining the difference between the initial width of the initial spacers and the target width;
forming a second spacer layer upon the initial spacers and the structure, the second spacer layer having a thickness that is equal to the determined difference between the initial width of the initial spacers and the target width; and
etching at least the second spacer layer from over the initial spacers and the structure leaving second spacer layer portions extending from the initial spacers along the structure forming the final spacers having the target width.

Claim 14 now recites:

A method of fabricating final spacers each having a target width, comprising the steps of:
providing a structure having a gate electrode portion formed there over; the gate electrode portion having a top and opposing side walls;
forming initial spacers over the opposing side walls of the gate electrode portion; the initial spacers each having an initial width that is less than the target width, the initial width and the target width being defined by the initial spacers and the final spacers extending along the structure away from the gate electrode portion, respectively;
determining the difference between the initial width of the initial spacers and the target width;
forming a second spacer layer upon the initial spacers and the structure, the second spacer layer having a thickness that is equal to the determined difference between the initial width of the initial spacers and the target width; and
etching at least the second spacer layer from over the initial spacers and the structure leaving second spacer layer portions extending from the initial spacers along the structure forming the final spacers; wherein the second spacer layer portions each having a width that is substantially equal to the thickness of the second spacer layer; the width of the second spacer layer portions plus the initial width of the initial spacers being equal to the target width.

According to the underlined portions of the amended claims 1 and 14 both require a step of etching at least the second spacer layer which leaves behind second spacer layer portions extending from the initial spacers along the structure forming the final spacers. This is clearly illustrated in FIG. 4 in which the second spacer layer portions 28 extends from the initial spacers 18 along the structure 10 and forming the final spacers 32 having the target width 30. Claims 1

and 14 have been further amended to recite that “the initial width and the target width being defined by the initial spacers and the final spacers extending along the structure away from the gate electrode portion, respectively. . . .” These definitions of the “initial width” and the “target width” are clearly illustrated in FIGs. 2-4.

In contrast, Gardner discloses a method of extending the length ℓ of the gate electrode 203 by forming a second spacer 209 on top of the first spacer 207 thus increasing the overall width of the spacer that is along the side walls of the gate electrode 203. This is clearly illustrated in FIG. 2C of Gardner and the accompanying texts in column 4 of Gardner. Unlike in the methods recited in the amended claims 1 and 14, the second spacer of Gardner only widens the width of the spacer along the side walls of the gate electrode 203 and does not extend the portion of the first spacer that is extending along the substrate 201.

Accordingly, the disclosure of Gardner is missing at least one element of amended claims 1 and 14 and, thus, does not anticipate either of the amended claims 1 and 14 under 35 U.S.C. § 102. Withdrawal of the rejections of claims 1 and 14 and their allowance upon reconsideration are requested.

Claims 2-13 depend from claim 1 and claims 15-25 depend from claim 14. Because the base claims 1 and 14 are allowable over the cited reference, the claims depending there from are also allowable over the cited reference. Therefore, the objection to claims 5, 10-13, and 22-25 is moot. Withdrawal of the rejection of claims 6-8, 17-19 and 21 and allowance of claims 2-13 and 15-25 are requested.

IV. Conclusion

Applicants believe that upon entry of the amendments submitted herein, all pending claims 1-39 are in allowable form. A favorable reconsideration of the present application is requested. Because this Amendment is being submitted within the THREE MONTHS time period from the March 8, 2005 mailing date of the Office Action no fee is believed due.

Respectfully submitted,

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Won Joon Kouh (Reg. No. 42,763)

Customer No. 08933
Duane Morris LLP
One Liberty Place
Philadelphia, PA 19103-7396
Attorneys for the Applicant